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BEFORE THE SUBCOMMITTEE ON BORDER AND MARITIME SECURITY  
COMMITTEE ON HOMELAND SECURITY  
U.S. HOUSE OF REPRESENTATIVES

HEARING ON USING RESOURCES EFFECTIVELY  
TO SECURE OUR BORDER PORTS OF ENTRY

APRIL 5, 2011

Madam Chairman and Members of the Subcommittee:

Thank you for the opportunity for Canadian National Railway Company (CN) to testify on using resources effectively to secure border ports of entry and CN's experience with cross-border commerce and security initiatives.

Like other large railroads operating in the United States, CN is a Class I railroad, as defined by the U.S. Surface Transportation Board. CN is a publicly-traded company, with extensive North American freight rail operations. In addition to our transcontinental operations across Canada, CN operates in 16 U.S. states. The smooth yet secure flow of legitimate commerce between Canada and the U.S. is critical to the economies of both countries and to CN.

CN's traffic across the U.S./Canada border includes automobiles, fertilizer, forest products, grain, intermodal, metals and minerals, and petroleum and chemicals. Roughly one-third of CN's revenues are generated from cross-border commerce. Combined with the fact that CN operates a scheduled railroad, the smooth flow of cross-border commerce is essential to our operations. CN consistently strives to meet our customers' needs for timely and efficient delivery; a fluid border is essential to this on-time service.

Rail Cross-Border Security Initiatives

CN has a longstanding working relationship with U.S. and Canadian Customs authorities on efforts to enhance cross-border security. Those efforts have increased substantially in the years since the September 11, 2001 attacks. Indeed, the governments of Canada and the United States have been actively engaged since 2001 on a broad range of border security initiatives, embodied in the Smart Border Declaration and in subsequent programs. CN has been a willing partner in U.S. and Canadian initiatives intended to enhance security while also ensuring the smooth flow of legitimate cross-border commerce.

CN was the first North American rail carrier participant in U.S. Customs and Border Protection's (CBP) Customs-Trade Partnership Against Terrorism (C-TPAT), and we have taken very seriously our responsibility to make needed investments and ensure the

security of our operations meet the C-TPAT criteria. CN also has been a participant for several years in the Canada Border Service Agency's (CBSA) comparable Partners-in-Protection (PIP) program.

CN has a police presence on both sides of the international border. CN Police officers work in collaboration with federal, state, provincial, local, and tribal law enforcement agencies toward the common goal of safeguarding our nations and communities against harm. The CN Police monitor border crossings with law enforcement personnel and the use of technical security equipment. The CN Police also conduct regular liaison activities and joint force operations with both U.S. and Canadian customs agencies in an effort to maximize the effectiveness of our collective resources.

Also of note, CN and Canadian Pacific Railway in April 2003 signed a Declaration of Principles with CBP and CBSA's predecessor agency, under which 100 percent of rail traffic at border crossings equipped with non-intrusive inspection technology would be screened at the border by this equipment. As a result of this Declaration and the subsequent expansion of the program across the border, 100 percent of CN's rail traffic entering the U.S. from Canada at present is screened by VACIS equipment, a far higher proportion than for any other transportation mode.

The effectiveness of the gamma ray screening is enhanced by the data transmitted electronically by rail carriers to CBP at least two hours in advance of a train arriving at the border for entry into the United States. As a result, CBP personnel can more effectively target at-risk shipments for additional screening and, if necessary, inspection as well as to more accurately evaluate the cargo in each conveyance as a train passes through the VACIS equipment. The advance data transmittal was a provision of the Declaration of Principles as well as more broadly implemented for rail and, with other applicable time frames, for all transport modes in Section 343 of the Trade Act of 2002 (Public Law 107-210), as modified by Section 108(b) of the Maritime Transportation Security Act of 2002 (Public Law 107-295).

CN also complies with the requirements of the Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-471), which requires advance notification to the Food and Drug Administration (FDA) of food that is imported or offered for import into the United States. We also are subject to U.S. Department of Agriculture (USDA) agricultural inspections of our cargo imported into the United States.

Lastly, much of the cargo transported by CN across the Canada/U.S. border initially entered Canada through seaports that are participants in CBP's Container Security Initiative (CSI), at which CBP and CBSA staff work together to screen cargo entering Canada and to target high-risk cargo. Further, a large proportion of the traffic that enters the Canadian CSI seaports sails from other CSI-participating ports outside of North America, which includes other security requirements. Most Canadian seaports also participate in CBSA's Joint Targeting Initiative (JTI), through which CBP and CBSA share information and collaborate on inspections; this provides an additional layer of security.

## CN Operations at the U.S./Canada Border

CN crosses the U.S./Canada border at seven crossing locations, with a total of roughly 45 trains per day operating northbound and southbound across the border. Our largest operation is at our Port Huron, Michigan/Sarnia, Ontario crossing, at which we operate nine trains per day in each direction, with our crossing at Ranier, Minnesota our second largest operation, with eight trains crossing the border daily in each direction.

At each border crossing, we provide cargo manifest data to CBP at least two hours in advance of each southbound train reaching the border. When we arrive at the border, the train slows to five miles per hour to go through the VACIS machine. At the majority of border crossings, CBP's VACIS equipment is located on the U.S. side of the border. However, at the Port Huron/Sarnia and the Detroit, Michigan/Windsor, Ontario crossings, CBP installed this equipment on the Canadian side of the border to facilitate operations.

When CBP wishes to conduct an inspection of a particular railcar or intermodal container, above and beyond the VACIS screening, we must stop the train with the targeted railcars or containers. In such cases, CN employs transborder specialists to assist Customs with the unloading and reloading of goods in railcars and intermodal containers. This may cause a train to have to cut that car and leave it behind, while the rest of the train moves through. In the case of intermodal stack trains, the railcars can be 200 feet in length and each carry up to 15 containers. The railcar that is cut from the train, with the container or containers that have been identified for inspection along with the other containers not targeted by CBP, will then be picked up by another train after the inspection process has been completed. When inspections such as these are conducted, it often requires the train to move back and forth over the track many times to effect the desired result of cutting out a specific car or cars.

## Issues and Concerns

A key priority for CN is promoting harmonized border regulations between the United States and Canada wherever possible, while recognizing the unique priorities and sovereign rights of both nations. CN has long been engaged in efforts to encourage risk-based, compatible U.S. and Canadian border security regulations that address security issues while facilitating legitimate cross-border trade.

More recently, we are pleased with the initiative announced on February 4 of this year by President Obama and Prime Minister Harper to pursue a perimeter approach to security, so as to accelerate the legitimate flow of people, goods, and services between the U.S. and Canada. The declaration by the two leaders noted their intent to use a risk management approach, to foster greater information sharing between agencies of both countries, and to work on innovative approaches to security and competitiveness.

As part of this initiative, President Obama and Prime Minister Harper announced their intent to establish a Beyond the Border Working Group, composed of appropriate government officials from both countries, which will develop a joint Plan of Action to

realize the goals of the leaders' declaration. The leaders also announced the creation of a Canada/U.S. Regulatory Cooperation Council, which is tasked with finding ways to reduce and prevent barriers to cross-border trade, while maintaining high standards of public health and safety and protecting the environment. Both governments are now engaged in a consultative process with affected stakeholders, in which CN is eager to participate actively.

### Conclusions

Safety and security are cornerstones of CN's operations. We are proud to be actively engaged with government agencies in both the United States and Canada to ensure the security of our operations, while also meeting the needs of our customers. We urge the Subcommittee to ensure that screening, targeting, and inspection activities by government agencies associated with cross-border commerce are governed by risk-management principles, taking into account the C-TPAT status of participants in the movements, the cargo manifest data transmitted in advance of the traffic's arrival at the border, and other factors relevant to the security of the cross-border operations. We also urge that agencies with border responsibilities work together to ensure effective and coordinated screening and inspection processes so as to not needlessly impede legitimate commerce.

Madam Chairman, thank you again for the opportunity to testify. I would be pleased to answer any questions that you or Members of the Subcommittee may have.